

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV](http://www.ca2.uscourts.gov)). IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 19th day of September, two thousand and seven.

PRESENT:

HON. JOHN M. WALKER, JR.,
HON. GUIDO CALABRESI,
HON. ROBERT D. SACK,
Circuit Judges.

MOHAMED BARRIE, _____

Petitioner,

-v.-

No. 06-3459-ag

ALBERTO GONZALES, ATTORNEY GENERAL,

Respondent.

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3 For Petitioner: MATTHEW J. HARRIS, *of counsel to* Eric A. Wuestman,
4 New York, N.Y.

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6 For Respondent: DANIEL G. LONERGAN, Trial Attorney, *for* Peter D. Keisler,
7 Assistant Attorney General, Civil Division, Washington,
8 D.C.
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10 Petition for review of an order of the Board of Immigration Appeals.
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14 **UPON DUE CONSIDERATION** of this petition for review of a decision of the Board of
15 Immigration Appeals (“BIA”), it is hereby **ORDERED, ADJUDGED, and DECREED** that the
16 petition for review is **DENIED**.
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20 Petitioner Mohamed Barrie, a native and citizen of Sierra Leone, petitions for review of
21 the June 23, 2006 decision of the BIA affirming the February 22, 2005 decision of Immigration
22 Judge (“IJ”) Paul DeFonzo denying petitioner’s application for asylum, withholding of removal,
23 and relief under the Convention Against Torture (“CAT”). *In Re Mohamed Barrie*, No. A79-
24 305-160 (B.I.A. June 23, 2006), *aff’g* No. A-79-305-160 (Immig. Ct. N.Y. City Feb. 22, 2005).
25 We assume the parties’ familiarity with the facts of this case, its procedural posture, and the
26 decision below.

27 Where, as here, the BIA does not expressly adopt the IJ’s decision, but writes a brief
28 opinion closely tracking the IJ’s reasoning, this Court may for the sake of thoroughness consider
29 both the IJ’s and the BIA’s decisions, at least as long as doing so does not affect the Court’s
30 ultimate conclusion. *Wangchuck v. DHS*, 448 F.3d 524, 528 (2d Cir. 2006). We review the
31 agency’s factual findings under the substantial evidence standard. *Zhou Yun Zhang v. INS*, 386
32 F.3d 66, 73 (2d Cir. 2004), *overruled on other grounds by Shi Liang Lin v. U.S. Dep’t of Justice*,

Nos. 02-4611-ag, 02-4629-ag, 03-40837-ag, 2007 WL 2032066, at *10-12 (2d Cir. Jul. 16, 2007) (en banc); *see also* 8 U.S.C. § 1252(b)(4)(B) (codifying this standard).

Both the IJ and the BIA concluded that Petitioner had demonstrated past persecution on account of political opinion, thus giving rise to a rebuttable presumption of a well-founded fear of future persecution. 8 C.F.R. § 1208.13(b)(1); *Islami v. Gonzales*, 412 F.3d 391, 397-98 (2d Cir. 2005). They also both concluded, however, that changed country conditions in Sierra Leone sufficed to rebut this presumption. Evidence in the record shows that the civil war in Sierra Leone has ended, that the rebel group which persecuted Petitioner has been largely disbanded, and that the party Petitioner supported has won power in a free and fair election. Petitioner has presented some evidence of continuing instability in Sierra Leone, but nothing sufficient to form the basis of a well-founded fear of future persecution. *See Melgar de Torres v. Reno*, 191 F.3d 307, 314 n.3 (2d Cir. 1999). Specifically, Petitioner has presented no evidence that the group which persecuted him continues to carry out such activities. Under the circumstances, we cannot say that the IJ and BIA erred in concluding that Petitioner's presumption of a well-founded fear of future persecution had been rebutted.

Petitioner also seeks "humanitarian asylum," a discretionary grant of asylum available to an applicant who has demonstrated both past persecution and "compelling reasons for being unwilling or unable to return to the country arising out of the severity of the past persecution" 8 C.F.R. § 1208.13(b)(1)(iii)(A). Our recent decision in *Jalloh v. Gonzales*, No. 06-3235-ag, 2007 WL 2331938 (2d Cir. Aug. 17, 2007), a case with nearly identical facts, binds us here, and we must therefore reject this claim.

The petition for review is DENIED.

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FOR THE COURT:

Catherine O'Hagan. Wolfe, Clerk of the Court

By: _____